

**Date:** May 17, 2016

**To:** Thomas J. Bonfield, City Manager  
**Through:** W. Bowman Ferguson, Deputy City Manager  
**From:** Donald F. Greeley, Director, Water Management  
**Subject:** Amend City Ordinances to provide for updating collection procedures, authorization for delivery of notice by electronic mail, establish a minimum late payment fee, clarify order of partial utility payment, and enhance the ability to resolve issues with obstructed water meters

### **Executive Summary**

The Department of Water Management (DWM) periodically reviews billing and collection procedures with the objective of increasing efficiency and effectiveness and adopting best business practices while also improving the customer experience. Updating collection procedures are designed to make payment of outstanding charges easier for customers and to clarify the consequences of non- or late payment. Authorization for delivery of notice by electronic mail will improve the customer experience as well as result in significant reduced cost for the City. Adopting a minimum late payment fee will assure the City is properly compensated for additional expenses.

The proposed changes to Section 70-5 address timely and effective methods of removing meter obstructions which impair the ability of Department of Water Management employees to perform their assigned responsibilities, including maintaining public health. While section 70-5 already prohibits such obstructions, it does not specify remedies, leaving enforcement to Section 70-30 of the City ordinance which details allowable civil and criminal action. The DWM would like to secure compliance in a more timely, efficient and customer-friendly manner by amending the ordinance to allow resolution without resorting to the courts.

### **Recommendation**

The department recommends that City Council:

- Adopt the amendment to the ordinance section 70-57 revising the collections process to have each bill retain the original due date, not accelerating the due date of a current bill based on the delinquency of a prior bill.
- Adopt the amendment to the ordinance section 70-57 establishing that delinquency fees shall be assessed based on not remitting payment by the notice date whether or not the water service is terminated,
- Adopt the amendment to the ordinance section 70-57 establishing a minimum late payment of \$5
- Adopt the amendment to the ordinance section 70-57 to add e-mail as an acceptable method of providing bills, delinquent notices, and other documentation to customers;
- Adopt an amendment to the ordinance section 70-57 to clarify the order of partial payments;

- Adopt the amendment to the ordinance section 70-5 allowing the Department of Water Management simplified enforcement against customers who obstruct access to water meters including the ability to tow a vehicle or take action to remove other objects.

## **Background**

*Due date of bills:* The current ordinance has not been amended to reflect current bill collection practices which have been adapted for updates to billing software, best practices and practical experiences. The present ordinance prescribes that bills are due 21 days after issuance. If any bill remains unpaid 14 days after the subsequent bill has been issued, both bills become immediately due and payable.

However, the second part of this provision was abandoned many years ago, presumably as an adaptation to the conversion to bi-monthly billing. If a customer is having trouble paying one bill, to demand payment of both bills a week prior to the second's stated due date is usually a financial hardship, if not impossible. Instead, the actual practice for at least five years has been to require payment of only the delinquent amount to prevent disconnection of service. Therefore it is recommended to amend the ordinance to require payment based on the time elapsed from the original bill and that an account will be turned off solely based on the delinquent amount, rather than all amounts outstanding from subsequent bills, even those not past the due date.

*Delinquency Fees:* Section 70-57(b) provides "A charge shall be made to defray the city's cost of making a visit to the location of the customer's service for the purpose of enforcing payment of bills or for restoring service." Current policy is to require that payment of delinquent amounts be made prior to 5 p.m. on a certain day specified in the delinquency notice to avoid termination of water service the next day. Early the next morning the billing software is used to prepare a list of those accounts remaining unpaid and automatically posts a \$50 delinquency charge. Field service representatives are then dispatched, usually before 8 a.m., to terminate water service. However, sometimes payment is received or payment arrangements made that day prior to the time the field service representative arrives at the location to turn the water off. This creates equity issues as it is not fair to charge one customer \$50 because he was first on the list to be cut off while another had time to make a payment before the field representative made it to the end of the cut-off list. The ordinance as amended would make this equity clear and reduce the amount of time staff spends explaining the reason for the charge to customers who paid after the deadline yet before the water could be turned off.

*Minimum late payment:* The ordinance section 70-57(a) provides "all bills not satisfied within 21 days after the date of issue shall be charged interest thereafter at a rate of one percent per month." Whereas many of these customers delay payment to the point where a delinquency notice is sent, the average late fee of approximately fifty cents does not cover the cost of the postage, much less materials and processing. Most utilities in North Carolina charge a minimum fee to cover notices and to encourage customers to pay promptly.

*E-mail delivery of bills, late notices, and other documentation:* The ordinance Section 70-57 provides "The sending of a bill to the consumer shall be the notice required by the city Charter." At the time the ordinance was written "send" obviously meant by U.S. mail. However, e-mail has now gained widespread acceptance and many customers, especially those who travel and/or are tech-savvy, are requesting this method of communication. While nothing precludes the City from using e-mail and postal services, changing the ordinance to

establish acceptability of e-mail would result in considerable cost savings to the City in both postage and staff time.

*Order of partial payment:* Currently partial utility payments are allocated under section 70-654 of the ordinance which gives stormwater priority over water and sewer charges. As there are solid waste and other charges now included on the utility bill which are not mentioned in the current ordinance, an amendment is proposed to address these additional charges.

*Meter Obstruction:* Staff in the Water and Sewer Maintenance (WSM) Division is responsible for reading meters as well as performing routine maintenance including meter replacement. If there are physical obstructions, work cannot be completed as scheduled and staff has to delay or defer work to avoid causing damage to private property. Although situations vary, many customers do not respond to notices to remove obstructions and employees are uncertain of what actions should be taken to avoid potential liability to the City. Recently, a customer was willing to allow WSM staff to cut down a large cactus which had overgrown a meter; however staff was reluctant to brave the spines and unsure of the proper disposal method to remove the cactus without personal injury. Additionally, there is no mechanism in place for the City to recover the costs it incurs to remove and dispose obstructions.

In other instances, staff has encountered vehicles parked over meters to prevent termination of service for non-payment. If customers do not voluntarily move vehicles after being contacted by Customer Service this could be resolved through the dispatch of a tow service to move the vehicle – without consent – to avoid additional financial loss to the City from unpaid water charges. There are other times when a water meter needs to be accessed due to a leak on the property but it is inaccessible due to an obstruction. Currently, there is no clear authorization under the ordinance allowing DWM staff to engage in the removal of an obstruction by employing a tow service retained by the City, nor any authority to put such additional charges on the water bill.

### **Issues and Analysis**

*Due date of bills:* Current policy deviates from the ordinance due to difficulties with enforcement from financially strapped individuals and perceived inequity of requiring payment of amounts which, had there not been a delinquent prior bill, would not be due yet. There is another problem with not amending the existing ordinance. The current billing software can only calculate delinquency based on the date the particular bill was issued, not the date of the subsequent bill, so enforcing the present ordinance would be problematic unless the software vendor could be compensated for major reprogramming or additional staff could be hired to track manually.

*Delinquency fees:* The way the current ordinance is worded creates a situation where customers with equal delinquencies could be treated differently. As the intent of additional fees and charges is to allocate cost to the customers equitably, those customers who incur greater staff time should bear commensurate cost. For the purpose of equity to all customers, the delinquency fee should be applied equally to all customers not making payment by the specified time, whether or not the water is physically turned off. For example, some customers make a payment on the web or by phone using the Interactive Voice Response system (IVR) on the morning of the cut-off and call the office early to let staff know. Whether or not a field service representative visits the location, substantial staff time is involved with processing payment for an account scheduled for turn off. After a

customer calls with payment information, staff must then check the software for the pending payment and then notify the Field Service Representatives (“FSR”) to take that individual off the list which may or may not happen before the FSR gets to the residence. Other times customers see the FSR in the yard and ask him not to turn them off and promise they will make a payment right away. The FSR may agree as a courtesy, and will check the computer later in the day to verify the customer kept his/her word before returning to the site. The proposed ordinance amendment clarifies that a delinquency fee will be charged if payment is not made by the deadline specified in the notice, whether or not water is shut off or a visit to the premises is completed.

The current ordinance also does not have a provision for waiver of the delinquency fee. The amendment seeks to add this option so that supervisors may have an additional tool for achieving equitable treatment of customers under extenuating circumstances without violation of the ordinance. Also, as the fee also serves as a deterrent and cost-recovery mechanism, only a one-time waiver is allowed as unlimited waivers would negate deterrence as well as fail to get adequate reimbursement for staff and vehicle expense.

There is no change proposed to the current delinquency fee which is \$50.

*Minimum late payment:* Increasing the late fee to the greater of \$5 or 1% of the outstanding charges is prudent as in most cases, the 1% late fee does not cover the cost of the delinquency notice, or offer much of an incentive to encourage customers to pay on time. The \$5 minimum has been adopted by many similar utilities (see below) and will serve to increase compliance with bill due dates and/or provide additional resources for mailing delinquency letters paid by those whose bills are delinquent.

<b>Late Payment Fee</b>	<b>City of Durham</b>	<b>OWASA</b>	<b>Cary</b>	<b>Raleigh</b>	<b>Greensboro</b>	<b>CFPUA</b>
	<b>(Proposed)</b>	Note 1				
% Unpaid balance	1%	\$2.40+5%	1%	1.5%	Note 2	10%
Minimum \$	\$5	None	\$5	\$5	\$20	None
Maximum \$	None	None	None	None	\$40	\$20
Note 1: Applies only to past due delinquent balances of at least \$10.00						
Note 2: \$20 if not paid by due date; additional \$20 if not paid one week later						

*E-mail delivery of bills:* The proposed amendment has a provision to allow electronic delivery (e-mail) as an acceptable method of delivering bills and notices which would have a positive impact for customers with mail delivery concerns as well as reducing postage costs for the City.

*Order of partial payment:* Section (c) has been added to supplement section 70-654 by clarifying the order of payment of other charges which may appear on a utility bill other than stormwater and water/sewer. This will assist collection of yard waste, backflow testing, and other charges which may appear on the utility bill. The city has the right to set the order of partial payments making current water charges the last priority in order to maintain the ability to use termination of water service to enforce payment of other charges. Stormwater charges retain their position as first to be collected in the ordinance revision.

*Meter Obstruction:* The Department of Water Management has an obligation to keep the water system in good working order and to collect for water and sewer services rendered. Meter obstructions can interfere with these objectives. The City Ordinance is only as effective as the ability to enforce the provisions. While using the City Attorney's Office and/or the court system to enforce compliance via Section 1-9 is an option, doing so for overgrown shrubbery and illegally parked vehicles is probably not an efficient use of City resources. Also, court action is likely to offend customers as an overly heavy-handed approach. However, in the event of a serious water break or customer plumbing emergency, there needs to be a clear way for city employees to quickly access meters, including any obstructed by cars, boats, fences, or landscaping.

### **Alternatives**

*Due date of bills:* The City could decide to not make any changes to dates for termination of service, and to enforce the ordinance as written and to pay the software vendor an estimated several thousand dollars to change its delinquency calculations to conform with the current ordinance. Enforcing payment of all amounts outstanding rather than just delinquencies might increase customer dissatisfaction as well as impair the City's ability to collect both amounts.

*Delinquency fees:* An alternative to clarifying the delinquency fee is that the City could set up various scenarios based on time of payment and/or whether service had been terminated with varying charges for assessing the delinquency charges manually. This would increase cost of staff time as there are usually between 50 and 100 customers on the daily service termination list.

Considering the one-time waiver of delinquency fees, the City could decide to have no waiver of delinquency fees which would either put supervisors in jeopardy of their jobs and/or increase customer dissatisfaction if customers believe they were treated unfairly when the fee is not removed under extenuating circumstances such as an emergency hospitalization of a customer who otherwise has paid on time for decades.

*Minimum late payment:* The City could decide not to increase late payment charges. The impact would be possibly forgoing additional revenue which would offset additional staff time needed for collections. Alternatively, the City could decide to increase payment charges by a different amount or percentage, the impact of which would depend on the amount. However, from the experience of similar-sized regional utilities, the \$5 charge appears to be a reasonable disincentive to being late without being onerous.

*E-mail delivery of bills:* The City could decide to allow e-mail in addition to postal service in which case customers would retain the convenience, but the City would not realize any savings or other benefit.

*Order of partial payment:* The City could decide not to change the order of payment which could jeopardize collection of solid waste fees as a customer could make a legal challenge to having his water turned off if he paid an amount which would have satisfied water charges had solid waste and/or other fees not received priority in payment.

*Meter Obstruction:* The City could decide not to make any changes, and continue with repeated requests to the customer to remove the obstruction without any consequences for noncompliance. This would result in delaying any action needed to carry out DWM responsibilities, possibly jeopardizing public health or the City's ability to collect rightfully

earned fees. Or the DWM could consult with the City Attorney's Office to bring legal proceedings whenever a customer refused to move the obstruction. As this has not been done before, it is unknown what the potential cost might be in terms of attorney time and court fees, much less customer ill-will.

### **Financial Impact**

*Due date of Bills:* It is hoped that the proposed changes will have a positive financial impact, although this is difficult to quantify. To the extent that customers are better able to pay delinquent amounts and staff is able to resolve disputes more equitably, collections should increase and staff time required for the current workload should decrease.

*Delinquency fees:* There will likely be little impact on how delinquency fees are charged from the proposed amendment.

*Minimum late fee:* Based on current trends, staff estimates as much as an additional \$200,000 might be received if the late fee is increased. However, this will much likely be lower as the higher cost would encourage customers to pay in a timely manner.

*E-mail delivery of bills:* A 10% e-bill adoption rate might result in postage and printing savings in the range of \$50,000 to \$60,000.

*Order of partial payment:* No financial impact anticipated.

*Meter Obstruction:* This should have a positive financial impact, although also difficult to quantify. To the extent that delays in maintenance are avoided, there will be less cost for repeatedly dispatching staff to see when the obstruction is finally removed so work can be done. Also, if there is a leak, water loss will be reduced if the meter is accessible sooner. Another benefit will be increased enforcement of collection of delinquent accounts. Turning off water is currently the most effective way to secure payment from delinquent customers. (If an obstruction is allowed to remain in place until a customer elects to move it, the City has little opportunity to collect any outstanding water charges.

### **SDBE Summary**

N/A

### **Attachments**

Ordinance Amendment to Sections 70-57 and 70-5